

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-00344R

Parcel No. 320/02826-659-000

**Matthew Smith,**

Appellant,

**vs.**

**Polk County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 9, 2020. Matthew Smith was self-represented. Assistant Polk County Attorney David Hibbard represented the Board of Review.

Matthew and Kristen Smith own a residential property located at 504 52nd Street, West Des Moines. The property's January 1, 2019, assessment was set at \$242,300, allocated as \$52,000 in land value and \$190,300 in dwelling value. (Ex. B).

Smith petitioned the Board of Review contending the property was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(2) (2019). (Ex. C). The Board of Review denied the petition. (Ex. B).

Smith reasserted his claim to PAAB.

## **General Principles of Assessment Law**

PAAB has jurisdiction over this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## **Findings of Fact**

The subject property is a two-story home built in 1985. It has 2136 square feet of gross living area, an unfinished basement, and an attached two-car garage. The property record card lists a 242-square-foot deck that Smith testified he removed in the summer of 2019, after the assessment. The home is listed in normal condition with a 4+10 average-quality grade. (Ex. A).

Smith purchased the subject for \$134,000 in 2003 and sold it on contract that same year for \$189,900. Smith took the home back in 2005 and stated the contract buyers had dogs and left the property in disrepair. Nonetheless, he and his family have lived there since that time.

He described the home as a work in process. He stated the house currently lacks any flooring, and has the wood underlayment exposed. (Exs. 1, 2 & 4). Smith testified his home will eventually be worth its assessed value, but should be valued in its present condition. In his appeal, Smith asserts his home should be valued the same as

a neighboring property, less \$20,000 for needed remodeling, including flooring, two bathrooms and basement finish. (Appeal).

Smith submitted his neighbor's home as a recent comparable sale. 5208 Boulder Drive sold in February, 2019 for \$242,000. Smith testified this home had been completely remodeled in 2015 with new siding, paint, carpet, and granite countertops. With 2623 square feet of living area, Smith determined this property sold at a price per square foot of \$92. Using this price for his 2136 square feet of living area, he believes his home would be worth \$196,512 if it were completely remodeled. In its current condition, he believes it will take \$20,000 to finish, therefore its non-remodeled state should be valued at \$176,512. (Appeal).

Other than Smith's testimony, little is known about the comparable sale other than proximity to the subject, its size, and sale price.

At the time of hearing, Smith also submitted an appraisal prepared by Katherine Lane, Lane Appraisal Services, LLC, West Des Moines, dated May 2018. (Ex. 5). The appraisal was prepared for a construction loan. Lane opined a value of the subject of \$270,500; \$28,200 more than the subject's current assessed value. She relied on three undated sales located within one mile of the subject, of similar age, size, quality and condition. The sales were adjusted for differences as compared to the subject and the range of adjusted sale prices was \$253,603 and \$270,772, all higher than the subject's assessment. Lane's final opinion of value was "placed at the upper end of the adjusted value range, property values are increasing." (Ex. 5, p. 2).

Lane described the subject as above average quality construction and the "family room and 2 additional finished rooms have been remodeled." (Ex. 5, p. 1). She also reported the kitchen and bathrooms were remodeled less than one year ago, and the dwelling has been "significantly updated" with a new roof, siding, and windows. Lane's opinion of value was "subject to completion of the proposed improvements, on the basis of a hypothetical condition the improvements have been completed in a workmanlike manner." (Ex. 5, pp 1-2). The attached photographs in the appraisal show

many finished, functional rooms as well as several rooms and the basement in some type of remodeling state.

Smith testified the photos in the appraisal were taken before he began remodeling. The report does not detail the anticipated costs of remodeling.

Although the loan document is not in the record, the Board of Review questioned whether it was a construction loan and elicited testimony of a promissory note in an amount of \$228,000 signed on June 23, 2018. Smith testified he has requested the loan be extended for six months. He further stated the appraisal was valuing the subject based upon the assumption that the remodel had been completed.

Smith testified he has been personally working on his home since obtaining the loan in June of 2018: working nights and weekends. He stated he believes he will be finished sometime this year. He provided photographs of some of the remodeling being done and stated they were taken in July of 2019. When asked how much progress was made between June of 2018 and January 1, 2019, Smith indicated he had completed a new roof, removed flooring, woodwork, and cabinets, replaced stools, and removed popcorn ceiling finish. He removed his wood deck in the summer of 2019 and plans to replace it with a patio. He has never obtained a building permit and described the work as mostly cosmetic. He has not had a more recent appraisal and has not requested a physical inspection of his home by the Assessor's Office. Nor did Smith offer any evidence of the costs of repair and remodeling his home, either incurred to date, or anticipated.

The Board of Review called no witnesses. It questions how long Smith's project should entitle him to a lower market valuation.

### **Analysis & Conclusions of Law**

Smith asserts the subject property is assessed for more than the value authorized by law. § 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). If PAAB determines Smith has established the grounds for their protest, then PAAB must make an independent determination of the property's correct value based on all of the evidence. *Compiano v. Polk Cnty. Bd. of Review*, 771 N.W.2d 392, 397 (Iowa 2009) (citations omitted).

In protest or appeal proceedings when the complainant offers competent evidence that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation. Iowa Code §441.21(3)(b)(2) (2019). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782 (citations omitted).

Smith submitted the 2019 sale price of his neighbor's property to support his assertion that his home is overassessed. However, little is known about this property or its sale conditions to determine if it was a normal sale and comparable to the subject. Moreover, no adjustments to that sale price were made, other than Smith's \$20,000 adjustment for his estimate of remaining remodeling. Smith presented no additional support for his costs for remodeling already completed nor his projected costs for projects yet to complete.

Smith also submitted the Lane appraisal concluding an opinion of market value of \$270,500 for the subject property. The appraisal was developed with the sales comparison approach to value and complies with the statutory scheme. However, it was made subject to the completion of repairs or alterations in unspecified amounts. It is substantially higher than the subject's current assessment. Even if we assume Smith's deduction of \$20,000 for remaining remodeling costs is appropriate, deducting this from the appraised value results in a value of \$250,500, which is still higher than the

assessment. Ultimately, we conclude the appraisal and Smith's proposed deduction thereto does not provide persuasive evidence of the subject property's January 1, 2019 market value.

Based on the foregoing, we conclude that Smith has failed to demonstrate that his home is overassessed

### **Order**

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order<sup>1</sup> and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



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Dennis Loll, Board Member



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Karen Oberman, Board Member



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Elizabeth Goodman, Board Member

Copies to:

Matthew Smith by eFile

Polk County Board of Review by eFile

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<sup>1</sup> Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.